

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE

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S. NO. 9

Introduced by Senator Flavier

EXPLANATORY NOTE

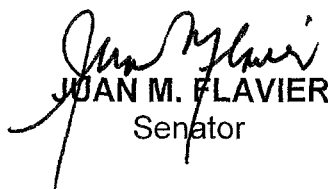
Over-dependence of the Philippine economy on oil-based sources of energy has made it vulnerable to the effects of energy shortages due to natural and man-made calamities and to our general inability to procure required equipment and quantities of petroleum. A large outlay of government foreign exchange currency is used to purchase imported oil and related products.

We should strive for self-sufficiency in energy by developing and utilizing our alternative indigenous resources. By so doing, we can ensure enough energy supply to fuel a growing economy, at less cost in terms of foreign reserves, and at the same time protect our endangered environment.

Residents in areas where conventional sources of energy are based and proposed have voiced their concern for the enormous pollution problems and damages these systems impact upon the environment. Where effective protection measures are either not put in place or properly implemented, ecological imbalance occurs, thereby constituting a threat to life and the environment.

Most non-conventional energy systems are environment-safe, as in wind and solar energy systems, and even environment-enhancing, as in systems for recycling waste into gas and biomass. Isolated groups and individuals have persisted and triumphed in their efforts to harness non-conventional sources of energy for daily home and industrial use. The Philippines is not lacking in such forward-looking and enterprising citizens, who have sometimes deplored the perceived lack of genuine government interest in their work.

Government must act soonest to pool these valuable talents and technologies together in an earnest and sustained effort to promote the nationwide development and utilization of economically viable non-conventional energy systems. The passage of this bill, which provides a comprehensive program towards the realization of this objective, is therefore, most urgently recommended.


JUAN M. FLAVIER
Senator

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**AN ACT
ESTABLISHING A NATIONAL NON-CONVENTIONAL ENERGY PROGRAM,
PROVIDING INCENTIVES FOR DEVELOPING, MANUFACTURING AND
USING OF NON-CONVENTIONAL ENERGY SYSTEMS, AND FOR OTHER
PURPOSES**

***Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:***

SECTION 1. *Short Title.* – This Act shall be known as the “National Non-Conventional Energy Program Act”.

SEC. 2. *Declaration of Policies.* –

- a) The State shall achieve self-reliance in the country’s energy requirements through the exploitation, not only of indigenous conventional energy resources but also, of non-conventional energy resources such as, but not limited to, biomass, solar, wind, micro-hydro and ocean energy as inexhaustible energy sources which can bring economic, social, and environmental benefits to the country.
- b) The State shall set up the institutional infrastructure and provide key government inputs to develop local capabilities in the use of non-conventional energy systems, encourage their widespread commercial applications, and promote their efficient utilization.

- c) The State shall promote the use of non-conventional energy systems to supply energy required in the rural areas for basic needs of home and industry through a comprehensive energy program.

SEC. 3. *Definition of Terms.* -- When used in this Act:

- a) "Non-conventional Energy Systems" or non-con energy systems or "NES", shall refer to energy systems which use renewable energy resources applying new energy conversion or utilizing innovative technologies. These systems can be characterized as indigenous, small-scale, decentralized and modular;
- b) "Renewable energy resources" shall refer to resources which do not have an upper limit on the total quantity to be used. The resources are renewed on a regular basis and the renewable rate is rapid enough to consider availability over an indefinite period of time. Examples are biomass, solar, wind, geothermal, hydro and ocean energy;
- c) "Biomass energy systems" shall refer to energy systems which use biomass resources such as fuelwood from forests, agricultural and industrial wastes, animal manure, fast-growing trees for charcoal production, and sugarcane for ethanol fuel production through thermo-chemical, biochemical or physico-chemical processes to produce heat, steam, mechanical power or electricity;
- d) "Solar energy systems" shall refer to energy systems which directly convert solar radiation, either through solar collectors into heat for various applications, or through photovoltaic panels into electricity;
- e) "Wind energy systems" shall refer to energy systems which use wind turbines to convert the energy in the wind to rotary motion which in

turn produces mechanical power, as in windmills or electrical power in wind turbine systems;

- f) "Micro-hydro power systems" shall refer to small hydro-based energy systems which utilize water turbines with an installed capacity of not more than 50kw as may be determined by the Office of Energy Affairs, to convert the energy from running or falling water;
- g) "Ocean energy systems" shall refer to energy systems which convert ocean current to electrical energy, otherwise known as wave and tidal power systems or ocean thermal energy conversion (OTEC) systems which convert thermal gradient from the ocean surface to the bottom into electrical energy; and
- h) "Conventional energy systems" shall refer to energy systems using commercially-traded modern fuels such as petroleum products, coal and electricity produced from such fuels, including large-scale hydro and geothermal power plants.

SEC. 4. *Implementing Agency/Powers and Functions.* -- The Department of Energy (DOE) shall formulate and implement the National Non-Conventional Energy Program (NEP). In this regard, DOE shall have the following powers and functions:

- a) Promulgate rules and regulations necessary to implement the objectives of this Act;
- b) Formulate and direct the implementation of a comprehensive national energy program, which shall include among others, a Non-conventional Energy Promotion and Commercialization Program and an Affiliated Non-conventional Energy Centers Program;

- c) Integrate, coordinate with, and provide the necessary guidelines to all government agencies and instrumentalities including government-owned and controlled corporations involved in non-conventional energy activities, projects and programs;
- d) Review and approve all on-going or planned non-con energy activities and projects supported or planned to be supported by government fund or funds obtained elsewhere through government intercession or assistance;
- e) Formulate criteria for determining priority for proposed research, development and utilization projects on non-conventional energy and accordingly identify and select the schemes for execution, financing, and funding without the necessity of prior approval by the National Economic and Development Authority;
- f) Designate project implementers, and coordinate and monitor the progress of all planned and on-going projects of NEP funded by the program's grants-in-aid fund;
- g) Provide necessary and appropriate support services to the national non-con energy program such as facilitation of entry of suitable foreign expertise and resources in order to accelerate the pace of technology transfer and development to local expertise, the launching of a vigorous information and promotion drive, and the institution of delivery mechanisms for the dissemination of viably-proven applications;
- h) Develop and implement specific policies encouraging the participation in the program of the private sector;

- i) Propose and recommend in consultation with the Board of Investments, such incentives necessary and appropriate to institutions, enterprises, organizations and individuals participating in the activities and projects of the non-con energy program; and
- j) Perform such other functions necessary to achieve the objectives of this Act.

SEC. 5. *Program Concept.* -- The National Non-Conventional Energy Program (NEP) shall consist of the following:

- a) The Technology Program for developing commercial competitiveness of laboratory-proven non-con energy systems and for maintaining such competitiveness by conducting technical research projects, in cooperation with public and private research institutions;
- b) The Promotion and Commercialization Program to accelerate the development of a market environment conducive for commercial use of non-con energy and to strengthen the market by provision of incentives towards a more significant participation of the private sector; and
- c) The Affiliated Non-Con Energy Centers (ANECs) Program for setting up and/or accrediting an institution that comprehends a mechanism for promoting the use of noncom energy in rural and remote areas through a decentralized project planning and implementation strategy of establishing ANECs in provincial universities and agricultural colleges or among cooperatives and other people's organizations that will serve as rural extension arms of OEA.

SEC. 6. *Responsibilities of OEA.* -- The responsibilities of OEA, among others, are as follows:

- a) Set the criteria which shall be the basis for accrediting ANECs until such time that the OEA can independently operate, supervise and coordinate ANECs operations, and evaluate ANECs performance with regard to continued participation with the program;
- b) Conduct energy technology assessment studies to provide research directions for the Technology Program, establish joint projects with public or private Cooperating Research Institutions (CRIs), coordinate the activities of these various CRIs and provide financial and technical support to strengthen CRI capability to do non-con energy research work; and
- c) Conduct activities and projects towards a conducive market environment for non-con energy use and greater private sector participation such as market studies, information dissemination, local manpower development, institutional linkages, and provision of financing and other incentives.

SEC. 7. Responsibilities of ANECS. – The ANECs shall provide extension support to OEA in the development and implementation of provincial-level rural noncon energy programs. The primary responsibilities are:

- (a) conduct rural energy surveys;
- (b) undertake area-based energy supply-demand studies;
- (c) conduct NES project feasibility studies;
- (d) carry out community organizing activities needed for project implementation;
- (e) provide local training in basic operation and maintenance of NES in their areas;
- (f) provide expert advise to local NES users;

- (g) monitor program implementation and user's feedbacks; and
- (h) such other responsibilities the OEA may deem necessary.

SEC. 8. Responsibilities of the CRIs. – Cooperating Research Institutions (CRIs) are public or private research institutions designated by OEA who shall jointly implement with OEA activities and projects under the technology program. Their primary responsibilities are:

- (a) conduct pilot studies and demonstration projects;
- (b) provide technical support and consultancy services to NES users;
- (c) assist OEA in developing quality standards for NES equipment and devices;
- (d) provide services for consultancy and technical training; and
- (e) such other responsibilities the OEA may deem necessary.

SEC. 9. Information Management Role of the OEA. – The CRIs, ANECs and the private sector involved in the NEP shall provide the OEA with information required for the effective monitoring, management and development of the program.

SEC. 10. Privileges of the Local Manufacturers, Dealers and Noncon Energy Users. – Any local manufacturer or dealer of NES equipment and devices or non-con energy user shall have the following privileges:

- a) All incentives as provided for by Section 39 of the Omnibus Investment Code or E.O. 226;
- b) At the option of the taxpayer and in accordance with the procedure established by the Bureau of Internal Revenue, fixed assets acquired by the local manufacturer and the non-con energy user for establishing

its capability to manufacture non-con energy system equipment and devices may be;

- 1) Depreciated to the extent of not more than twice as fast as normal rate of depreciation if expected life in ten (10) years or less; or
- 2) Depreciated over any number of years between five (5) years and expected life, if the latter is more than ten (10) years, and depreciation thereon allowed as deduction from taxable income: *Provided*, That the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used by it.

SEC. 11. *Incentives to ANECs and CRIs.* – Any school or institution designated by OEA either as an ANEC or a CRI, whether a public or a private agency, can be a recipient of donations from OEA so as to develop and strengthen their capabilities to perform their responsibilities under the NEP. Such may include funds, technical services, NES equipment and devices, and laboratory facilities.

SEC. 12. *Incentives to Faculty Members and Students of ANECs and CRIs.* – Any faculty member or student involved in any ANEC or CRI activity shall be granted the following incentives:

- a) Tasks performed by technical staff or faculty members for ANEC or CRI activity in connection with the NEP shall be credited as additional workload and they will be provided for with honoraria in accordance with guidelines defined by OEA.
- b) Students performing tasks for ANEC or CRI activity in connection with the NEP can obtain academic credits for such activities subject to the

approval of the school authorities. The students will also be financially compensated for the tasks performed in accordance with the guidelines set by OEA.

SEC. 13. Financial Assistance Programs. – Government financial institutions such as the Development Bank of the Philippines (DBP), the Philippine National Bank (PNB), the Government Service Insurance System (GSIS), the Land Bank of the Philippines (LBP), and such other government institutions as are now engaged or may hereafter engage in financing of investment operations shall in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to applications for financial assistance by individuals/enterprises/industries participating in the NEP as duly recommended and endorsed by the OEA.

SEC. 14. Program Appropriation. – The amount necessary for the implementation of this Act shall be taken from the current fiscal year appropriations of the Office of Energy Affairs. Thereafter, such sums as may be needed for the operation and maintenance of the Non-Conventional Energy Affairs under the annual General Appropriations Act.

SEC. 15. Assistance by Other Government Agencies, Offices and Corporations. – All government agencies and instrumentalities including government-owned and controlled corporations in addition to being implementors of the comprehensive national energy program when so designated, shall extend whatever assistance may be required by the Office of Energy Affairs including, but not limited to, the detail to the Office of their employees, scientists and technical personnel.

SEC. 16. Penalty Clause. – Any person who willfully violates any rule or regulation promulgated pursuant to the authority granted in this Act shall, upon conviction, be punished by a fine of not less than One hundred thousand pesos (P100,000.00), or by imprisonment of not less than two (2) years or not more than five (5) years, or both, at the discretion of the court: *Provided*, That if the violation is committed by a juridical person, the penalty provided shall be *imposed on the official or employee thereof responsible for the violation: Provided, further*, That if the violation is committed by a government official or employee including those in government-owned or controlled corporations, he shall in addition to the penalty provided, be subject to disciplinary administrative proceedings and penalties.

SEC. 17. Separability Clause. – If for any reason any provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

SEC. 18. Repealing Clause. – All laws, orders, decrees, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 19. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,